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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,739	05/10/2004	David A. Giardino	CP-5144US2	9744
7590	07/12/2006		EXAMINER	
SCHMEISER, OLSEN & WATTS 3 Lear Jet Lane, Suite 201 Latham, NY 12110			CHUKWURAH, NATHANIEL C	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 07/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/772,739	GIARDINO, DAVID A.	
	Examiner	Art Unit	
	Nathaniel C. Chukwurah	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 08 May 2006.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 56-64, 67 and 70-73 is/are pending in the application.
 4a) Of the above claim(s) 62-64 and 67 is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 56-61 and 70-73 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 13 June 2005 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

1. This office action is in response to the amendment filed on 5/8/2006.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 56-61 and 70-73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitchell et al. (US 2,727,598) in view of Spring et al. (US 3,989,113).

With regard to claim 56, Mitchell et al. discloses a method of using a modular control apparatus (12) comprising the steps of:

Providing a modular control apparatus (12), aligning, attaching and adjusting the output the modular control apparatus (see fig. 1) to a tool (11), and applying the tool to a workpiece (18, 19) as shown in Figure 1 wherein the apparatus is configured to shut off air flow to a tool after a selected time that torque is being applied by the tool (col. 5, lines 48-51, 55-59, 65-67).

The reference of Mitchell et al. discloses all claimed subject matter but specific teaching of a modular apparatus having a valve in fluid communication with the tool, and adjusting the flow restriction with the valve to control the output of the modular control apparatus.

However, Spring et al. teaches a method including a valve (27) in fluid communication with the tool (10 Fig. 1), and adjusting the flow restriction with the valve (27) (see col. 3, lines

31-43) to control the output of the modular control apparatus to a tool as shown in Figure 1, and applying the tool to a workpiece (col. 3, line 41).

In view of the teaching of Spring et al., it would have been obvious to one skilled in the art at the time of the invention to modify the valve of the pneumatic tool of Mitchell et al. by forming a valve in fluid communication with the tool, and adjusting the flow restriction with the valve to control the output of the modular control apparatus to a tool, in order to control the volume of air flow to the motor.

With regard to claim 57, the modified reference of Mitchell et al. includes the modular control being attached and detached from the tool via screws (12a), and the modular control apparatus is capable of being aligned, attached, adjusted to a second tool and applied to the second tool to a workpiece.

With regard to claims 58 and 59, the modified reference of Mitchell et al. includes a step of providing fluid and/or air to the modular control apparatus through the fitting (21).

With regard to claim 60, the reference of Mitchell et al. includes a method of using a pneumatic modular control apparatus comprising the steps of: attaching a pneumatic modular control apparatus (12) to a pneumatic tool (11) (see fig. 1) wherein the apparatus is configured to shut off air flow to a motor of tool in response to a selected time that torque is being applied by the tool (col. 5, lines 48-51, 55-59, 65-67); connecting a compressed-air supply channel (23) to an input port (23), channeling a compressed-air discharge from a discharge port to the tool's motor inlet.

The reference of Mitchell et al. discloses all claimed subject matter but specific teaching of a modular apparatus having a valve in fluid communication with the tool, and adjusting the flow rate of the valve to control the output of the modular control apparatus.

However, Spring et al. teaches a method including having a valve (27) in fluid communication with the tool (10), and adjusting the flow rate of the valve (27) by setting the valve position (see col. 3, lines 47-51) to control the apparatus and applying the tool to the workpiece as shown in Figure 1.

In view of the teaching of Spring et al. it would have been obvious to one skilled in the art at the time of the invention to provide the modular control apparatus of Mitchell et al. with a valve in fluid communication with the tool, and adjusting the flow rate of the valve by setting the valve position to control the output of the control apparatus in order to control the volume of air to the motor.

With regard to claim 61, the modified reference of Mitchell et al. includes attaching a workpiece (18, 19) adapter (16 fig. 1) to at least drive shaft (14) of the motor of the tool.

With regard to claim 70, Mitchell et al. discloses a method of using a modular control apparatus (12) comprising the steps of:

Providing a modular control apparatus (12) having an alignment mechanism formed by the screws (12a) for aligning the modular control apparatus with a tool (11), wherein the apparatus is configured to shut off air flow to a tool after a selected time that torque is being applied by the tool (col. 5, lines 48-51, 55-59, 65-67) by a valve (29) in fluid communication with the tool (11), attaching and applying the tool to a workpiece (18, 19) as shown in Figure 1.

The reference of Mitchell et al. discloses all claimed subject matter but specific teaching of a modular apparatus varying the flow restriction of the valve to control the output of the modular control apparatus.

However, the reference of Spring et al. teaches a method including varying the flow restriction of the valve (27) (see col. 3, lines 47-50) to control the output the control apparatus to a tool (10).

In view of the teaching of the Spring et al., it would have been obvious to one skilled in the art at time of the invention to provides the tool of Mitchell et al. with a method including varying the flow restriction of the valve (27) (see col. 3, lines 47-50) to control the output the control apparatus in order to control the volume of air flow to the motor.

With regard to claim 71, the modified reference of Mitchell et al. includes an adapter (16) and attaching the adapter (16) to the tool (11).

With regard to claim 72, the modified reference of Mitchell et al. includes a method of aligning, attaching and adjusting the output the modular control apparatus (see fig. 1) to a tool (11), and applying the tool to a workpiece (18, 19) as shown in Figure 1.

With regard to claim 73, the modified reference of Mitchell et al. includes a method of providing a fluidic modular control apparatus (12).

4. Claims 56-61 and 70-73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spring et al.(US 3,989,113) in view of Whitehouse (US 4,434,858).

With regard to claim 56, the reference of Spring et al. discloses a method of using a modular control apparatus (13 cover section) comprising the steps of:

Providing a modular control apparatus (13) having a valve (27) in fluid communication with the tool (10), aligning, attaching (see Fig. 1) and adjusting the flow restriction with the valve (27) to control the output of the modular control (see col. 3, lines 31-43).

Spring et al. disclose all claimed subject matter but lacks specific teaching of shutting off air flow to a tool after a selected time that torque is being applied by the tool.

However, Whitehouse teaches torque tool including shutting off air flow to a tool after a selected time that torque is being applied by the tool, for example, “power tool which is capable of responding during its application with minimal time delay in tool shut-off to provide superior uniformity and reliability of operation in precisely setting a workpiece to a degree of tightness” (col. 1, lines 56-60).

In view of the teaching of Whitehouse, it would have been obvious to one skilled in the art at the time of the invention to modify the control apparatus of the tool of Spring et al. by providing the control apparatus the capability of shutting off air flow to a tool after a selected time that torque is being applied by the tool for the benefit as discussed above in Whitehouse.

With regard to claim 57, the modular control of Spring et al. is capable of being attached and detached as shown in Figure 1.

Spring et al. do not expressly state that the modular control apparatus can be aligned, attached, adjusted to a second tool and applied to the second tool to a workpiece, however, the modular control apparatus of Spring et al. is capable of being adjusted to a second tool and applied to a second tool as shown in Figure 1.

With regard to claims 58 and 59, the method of Spring et al. includes a step of providing fluid and/or air to the modular control apparatus (Fig. 1).

With regard to claim 60, the reference of Spring et al. discloses a method of using a pneumatic modular control apparatus comprising the steps of: attaching a pneumatic modular control apparatus (13) to a pneumatic tool (10), and having a valve (27) in fluid communication with the tool (10), connecting a compressed-air supply channel (26) to an input port (Fig. 1), channeling a compressed-air discharge from a discharge port to the tool's motor inlet, and adjusting the flow rate of the valve by setting the valve (27) position (see col. 3, lines 47-51) to control the output the modular control apparatus; and applying the tool to a workpiece.

Spring et al. discloses all claimed subject matter but lacks specific teaching of shutting off air flow to a tool after a selected time that torque is being applied by the tool.

However, Whitehouse teaches torque tool including shutting off air flow to a tool after a selected time that torque is being applied by the tool, for example, "power tool which is capable of responding during its application with minimal time delay in tool shut-off to provide superior uniformity and reliability of operation in precisely setting a workpiece to a degree of tightness" (col. 1, lines 56-60).

In view of the teaching of Whitehouse, it would have been obvious to one skilled in the art at the time of the invention to modify the control apparatus of the tool of Spring et al. by providing the control apparatus the capability of shutting off air flow to a tool after a selected time that torque is being applied by the tool for the benefit as discussed above in Whitehouse.

With regard to claim 61, the method of Spring et al. includes attaching a workpiece adapter (24 nut socket) to at least drive shaft (23) of the motor (14) of the tool.

With regard to claim 70, the reference of Spring et al further discloses a method of using a modular control apparatus comprising the steps of:

Providing a modular control apparatus (14) having a valve (20) in fluid communication with the tool (Fig. 1), aligning, attaching (see Fig. 1) and varying the flow restriction of the valve (27) (see col. 3, lines 47-50) to control the output the modular control apparatus; and applying the tool to a workpiece.

Spring et al. disclose all claimed subject matter but lack specific teaching of shutting off air flow to a tool after a selected time that torque is being applied by the tool.

However, Whitehouse teaches torque tool including shutting off air flow to a tool after a selected time that torque is being applied by the tool, for example, "power tool which is capable of responding during its application with minimal time delay in tool shut-off to provide superior uniformity and reliability of operation in precisely setting a workpiece to a degree of tightness" (col. 1, lines 56-60).

In view of the teaching of Whitehouse, it would have been obvious to one skilled in the art at the time of the invention to modify the control apparatus of the tool of Spring et al. by providing the control apparatus the capability of shutting off air flow to a tool after a selected time that torque is being applied by the tool for the benefit as discussed above in Whitehouse.

With regard to claim 71, the method of Spring et al. includes attaching a workpiece adapter (24 nut socket) to at least drive shaft (23) of the motor of the tool (10).

With regard to claim 72, the modular control of Spring et al. capable of being attached and detached as shown in Figure 1.

Spring et al. do not expressly state that the modular control apparatus is aligned, attached, adjusted to a second tool and applied to the second tool to a workpiece, however, the modular

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control apparatus of Spring et al. is capable of being adjusted to a second tool and applied to a second tool as shown in Figure 1.

With regard to claim 73, the method of Spring et al. includes a step of providing fluid to the modular control apparatus (Fig. 1).

Response to Arguments

5. Applicant's arguments with respect to claims 56-61 and 70-73 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Refer to attachment for notice of references cited and recommended for consideration based on their disclosure of limitations of the claimed invention.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathaniel C. Chukwurah whose telephone number is (571) 272-4457. The examiner can normally be reached on M-F 6:00AM-2:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NC

June 29, 2006.



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